

GIBSON, DUNN & CRUTCHER LLP
JEFFREY D. DINTZER (SBN 139056)
MATTHEW C. WICKERSHAM (SBN 241733)
NATHANIEL P. JOHNSON (SBN 294353)
333 South Grand Avenue, 47th Floor
Los Angeles, CA 90071-3197
Telephone: (213) 229-7000
Facsimile: (213) 229-7520

Attorneys for Defendants-in-Intervention,
AERA ENERGY LLC, BERRY PETROLEUM
COMPANY LLC, CALIFORNIA RESOURCES
CORPORATION, CHEVRON U.S.A. INC.,
FREEPORT-MCMORAN OIL & GAS LLC, LINN
ENERGY HOLDINGS LLC, and MACPHERSON
OIL COMPANY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ALAMEDA

CENTER FOR BIOLOGICAL
DIVERSITY, and SIERRA CLUB, non-
profit corporations,

Plaintiffs,

vs.

CALIFORNIA DEPARTMENT OF
CONSERVATION, DIVISION OF OIL,
GAS, AND GEOTHERMAL
RESOURCES; and DOES 1 through 20,
inclusive,

Defendants.

AERA ENERGY LLC, BERRY
PETROLEUM COMPANY LLC,
CALIFORNIA RESOURCES
CORPORATION, CHEVRON U.S.A.
INC., FREEPORT-MCMORAN OIL &
GAS LLC, LINN ENERGY HOLDINGS
LLC, and MACPHERSON OIL
COMPANY,

Defendants-in-Intervention.

Case No. RG15769302

Assigned for all purposes to the Hon. George C.
Hernandez, Dept. 17

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT DEMURRER BY AERA
ENERGY LLC, BERRY PETROLEUM
COMPANY LLC, CALIFORNIA
RESOURCES CORPORATION,
CHEVRON U.S.A. INC., FREEPORT-
MCMORAN OIL & GAS LLC, LINN
ENERGY HOLDINGS LLC, AND
MACPHERSON OIL COMPANY TO
CENTER FOR BIOLOGICAL DIVERSITY
AND SIERRA CLUB'S COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF AND VERIFIED PETITION FOR
WRIT OF MANDATE**

Date: September 30, 2015
Time: 2:30 p.m.
Dept.: 17
Reservation No.: R-1658816

Action Filed: May 7, 2015
Trial Date: None set

1 Pursuant to Evidence Code section 452 and the following Memorandum of Points and
2 Authorities, Defendants-in-Intervention, Aera Energy LLC, Berry Petroleum Company LLC, California
3 Resources Corporation, Chevron U.S.A. Inc., Freeport-McMoRan Oil & Gas LLC, LINN Energy
4 Holdings LLC, and Macpherson Oil Company (collectively, "Energy Companies") request that this
5 Court take judicial notice of the following documents:

- 6 • Exhibit A: Letter sent by Jared Blumenfield, the EPA Region IX Administrator, to Matt
7 Rodriguez, Secretary for Environmental Protection at the California Environmental
8 Protection Agency ("CalEPA"), and John Laird, Secretary for the California Natural
9 Resources Agency, dated July 17, 2014, attached as Exhibit A to the Declaration of
10 Nathaniel P. Johnson in support of Demurrer by the Energy Companies ("Johnson Decl.");
- 11 • Exhibit B: Letter sent by Steve Bohlen, State Oil and Gas Supervisor, and Jonathan Bishop,
12 Chief Deputy Director of the State Board, to Jane Diamond, the Director of the Water
13 Division at the EPA Region IX, dated February 6, 2015, attached as Exhibit B to the Johnson
14 Decl.;
- 15 • Exhibit C: Memorandum titled "CalEPA Review of UIC Program" prepared by the CalEPA,
16 dated March 2, 2015, attached as Exhibit C to the Johnson Decl.;
- 17 • Exhibit D: Press Release from DOGGR, titled "California Department of Conservation
18 Issues Notice of Emergency Regulations for Underground Injection," dated April 2, 2015,
19 attached as Exhibit D to the Johnson Decl.;
- 20 • Exhibit E: "Comment Response" prepared by DOGGR regarding the emergency Aquifer
21 Exemption Compliance Schedule Regulations, dated April 17, 2015, attached as Exhibit E to
22 the Johnson Decl.;
- 23 • Exhibit F: Letter sent by Michael Montgomery, Associate Director of the Water Division at
24 the EPA Region IX, to Steve Bohlen, State Oil and Gas Supervisor, and Jonathan Bishop,
25 Chief Deputy Director of the State Board, dated May 28, 2015, attached as Exhibit F to the
26 Johnson Decl.;
- 27 • Exhibit G: Letter sent by Steve Bohlen, State Oil and Gas Supervisor, and Jonathan Bishop,
28 Chief Deputy Director of the State Board, to Michael Montgomery, Associate Director of the

Water Division at the EPA Region IX, dated July 31, 2015, attached as Exhibit G.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

When ruling on a demurrer, the trial court must consider not only the complaint itself, but also, “any matter of which the court is required to or may take judicial notice.” (Code Civ. Proc., § 430.30, subd. (a); see also *Mack v. State Bar* (2001) 92 Cal.App.4th 957, 961.) The Evidence Code mandates judicial notice of matters that comport with the requirements of Evidence Code Section 452, provided that the requesting party: (1) give adequate notice to the adverse party; and (2) include sufficient information to enable the Court to take judicial notice. (Evid. Code, §§ 452 & 453.) The documents referenced in this request fall directly within the category of matters appropriate for judicial notice under the Evidence Code.

II. ARGUMENT

A. Exhibits A through G, State and Federal Government Reports.

Aera Energy respectfully requests, pursuant to Evidence Code Section 452, subdivisions (c) and (h) that the Court take judicial notice of the Exhibits A-G referenced above. Each of the Exhibits was prepared by and retrieved from the official websites of government agencies. Exhibit A was prepared by the U.S. EPA and is available on the website for the U.S. EPA at the website URL: <http://www.epa.gov/region9/mediacenter/uic-review/pdf/epa-letter-doggr-rodriguez-laird-2014-07-17.pdf>. Exhibit B was prepared by DOGGR and the State Water Board and is available on the website for DOGGR at the website URL: [http://www.conservation.ca.gov/dog/general_information/Pages/UndergroundInjectionControl\(UIC\).aspx](http://www.conservation.ca.gov/dog/general_information/Pages/UndergroundInjectionControl(UIC).aspx). Exhibit C was prepared by the CalEPA and is available on the website for the CalEPA at the website URL: <http://www.calepa.ca.gov/Publications/Reports/2015/UICFindings.pdf>. Exhibit D was prepared by DOGGR and is available on the website for DOGGR at the website URL: <http://www.conservation.ca.gov/index/news/Documents/2015-06%20UIC%20emergency%20regulations.pdf>. Exhibit E was prepared by DOGGR and is available on the website for DOGGR at the website URL: http://www.conservation.ca.gov/dog/general_information/Pages/UICEmergencyRegs.aspx. Exhibit F was prepared by the U.S. EPA and is available on the website for DOGGR at the website URL: http://www.conservation.ca.gov/dog/general_information/

1 Pages/UndergroundInjectionControl(UIC).aspx. Exhibit G was prepared by DOGGR and the State
2 Water Board and is available on the website for DOGGR at the website URL: [http://www.
3 conservation.ca.gov/dog/general_information/Pages/UndergroundInjectionControl\(UIC\).aspx](http://www.conservation.ca.gov/dog/general_information/Pages/UndergroundInjectionControl(UIC).aspx).

4 Pursuant to California Evidence Code Section 452, subdivision (c), the Court may take judicial
5 notice of “[o]fficial acts of the legislative, executive, and judicial departments of the United States and
6 of any state of the United States.” The Court is entitled to take judicial notice of the records and files of
7 state and federal administrative agencies. (See also *Fowler v. Howell* (1996), 42 Cal. App.4th 1746,
8 1750 [court took notice of decision in records of California State Personnel Board]; *Hogen v. Valley*
9 *Hospital* (1983) 147 Cal.App.3d 119, 125 [court took judicial notice of records of Board of Medical
10 Quality Assurance]; *Chas. L. Harney, Inc. v. State of California* (1963) 217 Cal.App.2d 77, 85–86
11 [court took judicial notice of records of the State Board of Control and Office of State Controller].) The
12 documents attached at Exhibits A-G all constitute records and files of state and federal administrative
13 agencies. The documents are all posted and publicly available on the official websites of these
14 agencies.

15 Moreover, the Court may take notice of “[f]acts and propositions that are not reasonably subject
16 to dispute and are capable of immediate and accurate determination by resort to sources of reasonably
17 indisputable accuracy.” (Evid. Code § 452(h).) This includes text from the websites of various
18 governmental agencies and entities. (See *Shaw v. People ex rel. Chiang* (2009) 175 Cal.App.4th 577,
19 606-07, n.10 [“The [Department of Transportation’s] Web site shows the structure of the Department of
20 Transportation and provides the department’s definition of the term ‘mass transportation.’ Such matters
21 are relevant and may be judicially noticed as official acts and public records.”] [internal citation
22 omitted]; *Moehring v. Thomas* (2005) 126 Cal.App.4th 1515, 1524, n.5 [taking judicial notice of a
23 management plan and “other information” found on the United States Department of Agriculture Forest
24 Service’s website pursuant to Evidence Code Section 452].) Exhibits A-G contain official facts from
25 state and federal governmental agencies that cannot be reasonably disputed.

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Dated: August 17, 2015

GIBSON, DUNN & CRUTCHER, LLP

Jeffrey D. Dauter

Attorneys for Defendants-in-Intervention,
AERA ENERGY LLC, BERRY PETROLEUM
COMPANY LLC, CALIFORNIA RESOURCES
CORPORATION, CHEVRON U.S.A. INC., FREEPORT
MCMORAN OIL & GAS LLC, LINN ENERGY
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